



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

July 14, 1986

Dr. Wayne M. McGrath
Executive Director
Arizona Community College Board
Century Plaza - Suite 810
3225 North Central
Phoenix, Arizona 85012

Re: I86-074 (R85-168, R86-070)

Dear Dr. McGrath:

You ask whether the State Community College Board ("State Board") has authority to sue a county to recover the tuition owed to a community college district ("district") pursuant to A.R.S. §§ 15-1469 and 15-1470 and, if so, whether the Attorney General's Office would represent the State Community College Board in such litigation.

A.R.S. § 15-1469 states in pertinent part:

B. It shall be the obligation of the county of the student's residence to reimburse the district as provided in this subsection.

....

....

D. On or before May 15, the state board shall:

1. Determine the amount of reimbursement to each district from each county pursuant to subsection B, paragraph 1 of this section.

Dr. Wayne M. McGrath
July 14, 1986
I86- 074
Page 2

2. Notify the board of supervisors of each county of the amount it shall reimburse to each district pursuant to subsection B, paragraph 1 of this section for the budget year.

3. Notify each community college district eligible to receive reimbursement of the amount of reimbursement from each county pursuant to subsection B, paragraph 1 of this section for the budget year.

The State Board determines the amount of reimbursement by the county to a district, notifying both the county board of supervisors and the district of the reimbursement amount. The State Board has no other role in the reimbursement process and has neither an interest, claim or right to the reimbursement. The claim, right and interest is solely that of the district for moneys owed to it by a county for the district providing education to residents of the county. The reimbursement belongs solely to the district and the State Board has no claim, and therefore no right to sue a county to recover district funds: "A suit cannot be maintained where it appears from the declaration itself that the right of action is not in the party suing, but in another." Neil v. Chrisman, 26 Ariz. 566, 574, 229 P. 92, 94 (1924).

Accordingly, we conclude that the State Board has no authority to sue a county to collect fees belonging to a district. We therefore do not reach the second question, whether the Attorney General's office would represent the State Board in such litigation.

Sincerely,



BOB CORBIN
Attorney General

BC:JDR:lfc